

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

EFRAIN J. ROSA,

Petitioner,

v.

5:18-CV-1039 (NAM)
5:07-CR-443 (NAM)

UNITED STATES OF AMERICA,

Respondent.

Appearances:

Efrain J. Rosa,
Petitioner, Pro Se
14606-052
United States Penitentiary Tucson
PO Box 24550
Tucson, Arizona 85734

For United States of America:
Grant C. Jaquith,
United States Attorney
Lisa M. Fletcher, Tamara Thompson
Assistant United States Attorneys
Office of United States Attorney
100 South Clinton Street
Syracuse, New York 13261

Hon. Norman A. Mordue, Senior U.S. District Court Judge:

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MEMORANDUM-DECISION AND ORDER

Currently pending before the Court is Petitioner Efrain J. Rosa' motion to file a successive motion under 28 U.S.C. § 2255 to vacate, set aside, or correct his sentence based upon "newly discovered evidence." (Dkt. No. 124). Such a motion must be addressed to the Second Circuit. *See* 28 U.S.C. §§ 2244(b), 2255(h). Therefore, the motion shall be transferred

to the Second Circuit pursuant to 28 U.S.C. § 1631. *See Liriano v. United States*, 95 F.3d 119 (2d Cir. 1996).

It is therefore

ORDERED that the Clerk of Court shall transfer this motion, (Dkt. No. 124), to the Clerk of Court for the United States Court of Appeals for the Second Circuit on the ground that
it is a motion to file a successive motion under 28 U.S.C. § 2255; and it is further

ORDERED that the Clerk of the Court is directed to serve copies of this Memorandum-Decision and Order in accordance with the Local Rules of the Northern District of New York.

IT IS SO ORDERED.

Date: September 17, 2018
Syracuse, New York



Norman A. Mordue
Senior U.S. District Judge